MULTIMEDIA UNIVERSITY

STUDENT ID NO

MULTIMEDIA UNIVERSITY

FINAL EXAMINATION

TRIMESTER 1, 2018/2019

UPP4612 – PROFESSIONAL PRACTICE I

(All Sections / Groups)

15 OCTOBER 2018
Reading Time : 2.30 p.m. – 2.45 p.m.
(15 Minutes)
Answering Time: 2.45 p.m. – 5.45 p.m.
(3 Hours)

INSTRUCTIONS TO STUDENT

1. Students will have **fifteen minutes** during which they may read the paper and make rough notes ONLY in their question paper. Students then have the remaining **THREE HOURS** in which to answer the questions.

2. This Question paper consists of 3 pages with 4 Questions only.

3. **Section A** is **COMPULSORY** and carries 75 marks. In **Section B** attempt either **question 4(a) or 4(b)**. The distribution of the marks for each question is given.

4. Students are allowed to bring in **CLEAN** AND **ORIGINAL** COPY of Legal Profession Act 1976 (Act 166), Rules & Orders.

   "Clean" is defined to include no tagging, no annotation either by the publisher or anyone else, and no erased marking. Highlighting and underlining are also prohibited

5. Please write all your answers in the Answer Booklet provided.

SECTION A: COMPULSORY

QUESTION 1

Lionel Messi, an advocate & solicitor of 3 years standing practising in Melaka is also a barrister-at-law qualified from England who works as a Legal Assistant for Messrs Harry Kane & Associates . In the course of acting for Cristiano Ronaldo in an employment matter, Mr Messi inadvertently gave wrong legal advice. Mr Ronaldo relied on the advice and consequently suffered loss and damage. He has now filed a claim for negligence against Mr Messi. Mr Messi is quite fed up working as a Legal Assistant and earning a low salary and is thinking of setting up his own law office as a sole-proprietor in the near future.

(a) Lionel Messi would like to claim immunity under English law.
Will Mr Messi succeed in raising immunity?
Explain by referring to the available case laws in England and Malaysia.

(7 marks)

(b) Advise Mr Messi what are the six (6) fundamental issues he must consider before he decides to set up his own legal practice.

(18 marks)

(Total: 25 marks)

QUESTION 2

Feedar, an advocate & solicitor has been in active practice for almost 12 years at Johor Bahru. On January 2018 and continuing, she has been practicing without a practicing certificate and without Professional Indemnity Insurance. There is no letter addressed to the Bar Council informing she has ceased practice as required. On 1 August 2018, a complaint was lodged by the Bar Council to the Disciplinary Board against her in breach of Section 29 of the Legal Profession Act 1976, which may also constitute a misconduct under the Legal Profession Act 1976.

A few days after, another written complaint has been made against Feedar by her client, Rol and Rol Development Bhd. on the misuse of their money for own purpose. She denied the allegation and stated that the Rol and Rol Development Bhd. is trying to destroy her career as one of the famous conveyancing lawyer in Johor Bahru area.

Discuss the stages of disciplinary proceedings that can be taken to investigate the complaint against Feedar as prescribed by the Act and what can be done by the Disciplinary Board if Feedar is found guilty for both complaints.

(Total: 25 marks)

Continued...

QUESTION 3

Mira Edora is the owner of Messrs Edora & Co. She has been in active practice for at least 3 years doing both conveyancing and litigation cases. She was unsatisfied with the profit gain so far as it is not sufficient to maintain her luxurious lifestyle. Mira Edora a very ambitious young lady at the age of 27 years old opens another business, selling apparel. She has made a few months' survey of this business and believe that the business will help her sustained for another few years. She is very busy handling clients' cases. Therefore, she had no choice but to carry both businesses together at the same office, she utilizes the opportunity, by selling the apparel to her clients who come to her firm. It works! as the profit from the apparel business increasing and therefore she decided to print new name card to include her apparel business too. By using this strategy, people will know her product and her service at the same time.

Last month, she had a case in Putrajaya where the client had paid the full legal fees and really hope that she will litigate the matter for him, but she was not able to attend the Putrajaya Court and failed to inform the client. Her excuse was that she had another hearing in Kuantan on the same date and the judge did not allow adjournment. Further, the Kuantan's client was her good friend, therefore she had no option but to represent the client there.

The client waited for her, but she did not turn up. When the case was called, it has to be stand down due to the absence of Mira Edora. The client tried many times to call her but her handphone was off. Finally, the client had no choice but to defend the case himself. Judgment was entered against him. Mira Edora apologized to the client but done nothing to protect her client's right.

On a few occasion, she asked Juli, fashion designer working for her in the law firm to sign a Sale & Purchase agreement and correspondence on her behalf as she is outstation for a few days to promote her apparel business and unable to sign. Both the SPA and the correspondence are to be signed and posted urgently. Her focus now is on her apparel business more than the legal firm. That makes her sometimes wearing colourful and latest design of her apparel in Court, as one of the business strategy to boost her business profit.

Explain Mira's conduct as an advocate & solicitor by referring to the Legal Profession Act 1976 and the rules governing the legal profession.

(Total: 25 marks)

Continued...

SECTION B- ANSWER EITHER QUESTION 4(a) *OR* 4(b) ONLY

QUESTION 4 (a)

Boroy, an advocate & solicitor, has been practicing as a litigation lawyer for the past ten years. His firm was established as a small firm with no clerks and currently he has 10 clerks working under him. Last Friday, he was approached by a local media, the "Heboh Sweet", who is willing to pay him RM500,000 if he disclosed the facts of one VVIP's case that he is handling.

At first he disagreed with the "Heboh Sweet" suggestion, but when thinking about his act of using clients' money from the Client's Account and the client's had demanded for the debt to be settled as soonest possible, he agreed to reveal. The news was reported, and it destroys his client's credibility and reputation widely. The client's was surprised to hear the news and believe that Boroy is responsible for the news as the matter was only informed and reveal to him as the client's solicitor.

Further, this being the 10th year of the firm establishment, Boroy also arranged to mark the Anniversary with the publication of a special brochure containing a profile of all the lawyers in the firm and some of the landmark cases conducted by the firm. For publicity purposes, he has arranged for the brochure to be published in one of the "Heboh Sweet" news slot. The news highlighted the firm's 'outstanding' contribution in the field of construction law where Boroy himself was singled out as *"outstanding, the best lawyer in town specifically in construction cases"* and it was stated that *"he has handled VVIPs' cases and has not lost any case yet"*.

Explain Boroy's conduct as an advocate and solicitor in relation to the relevant law/ rules governing the Legal Profession Act 1976.

(Total: 25 marks)

OR

QUESTION 4 (b)

A lawyer has many duties to carry out whilst being in practice.

With reference to case laws illustrate the principle duties of an Advocate & Solicitor when dealing with their assigned cases that are being heard in Court.

(Total: 25 marks)

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